

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

DARK CIRCUIT LABS, INC.,

Plaintiff,

vs.

**BLACK SAILS SECURITY LLC, JOHN
CARPENTER, ERIC MISSIMER,
MICHAEL FRANK, and KEITH
HADDOCK,**

Defendants.

Civil Action No.: 1:23-cv-00326-LMB-LRV

JOINT DISCOVERY PLAN

Come now the below signed parties who have appeared in the above captioned case, Plaintiff Dark Circuit Labs, Inc. (“Plaintiff”) and Defendants Black Sails Security LLC, John Carpenter, Eric Missimer, Michael Frank, and Keith Haddock (collectively, “Defendants”), by counsel, pursuant to Rule 26(A) of the Federal Rules of Civil Procedure, Local Civil Rule 26(A), and this Court’s Scheduling Order, dated May 5, 2023, hereby jointly propose the following discovery plan:

1. On April 27, 2023 and May 26, 2023, the parties conferred prior to the initial pretrial conference.
2. The parties have conferred regarding the claims, defenses, possibilities of a prompt settlement or resolution of the case, trial before a Magistrate Judge, to arrange for the disclosures required by Rule 26(a)(1), and to develop a discovery plan which will complete discovery by September 21, 2023.
3. All parties agree with the proposed Discovery Plan.

4. By submitting this Joint Discovery Plan, Defendants are not conceding the validity of Plaintiff's claims, are not waiving the arguments made in their pending or anticipated motions to dismiss, and are not submitting to jurisdiction in the Eastern District of Virginia.

5. The parties have cooperated to schedule a mediation before a private mediator and such mediation will take place on June 12, 2023. Should the case proceed following the scheduled mediation, the parties will cooperate to schedule a settlement conference before a Magistrate Judge, or mediation before a private mediator, if, as the case proceeds, a settlement conference or mediation would appear to be beneficial.

6. The parties do not consent to proceed before a United States Magistrate Judge.

7. The parties will exchange Fed. R. Civ. P. 26(a)(1) disclosures by July 5, 2023.

8. A party may not exceed five (5) non-party, non-expert witness depositions and may not serve on any other party more than thirty (30) interrogatories, including parts and subparts, without leave of Court.

9. The parties agree that interrogatories, requests for admissions, and requests for documents must be served no later than July 7, 2023 to be subject to a motion to compel, and no later than July 14, 2023 to warrant a response.

10. The parties discussed issues relating to disclosure or discovery of electronically stored information ("ESI") and agree to the following: (1) the parties may seek ESI regarding any of the subject matters alleged in the pleadings in this consolidated action; (2) disclosure or production of ESI will generally be limited to data reasonably available to the parties in the ordinary course of business; (3) the parties do not anticipate seeking data beyond what is reasonably available in the ordinary course of business; (4) the parties agree to produce ESI in native format where feasible; (5) the parties represent that they have taken reasonable measures to preserve potentially discoverable data from alteration or destruction; (6) the parties will comply

with Federal Rule of Civil Procedure 26(b)(5)(B) regarding the inadvertent production of privileged information; and (7) the parties do not at this time anticipate that any other problems will arise in connection with electronic or computer-based discovery.

11. The parties will confer on the terms of an appropriate protective order that may be deemed necessary to protect any confidential or proprietary information that may be exchanged during the course of discovery. The parties shall file the appropriate motion with the Court for approval of same should it become necessary.

12. The parties agree that each party will be entitled to take the depositions of each of the parties and each expert witness designated by any of the parties.

13. The parties agree that the deadline for deposition notices is August 7, 2023.

14. Plaintiff will serve disclosures of expert testimony pursuant to Fed. R. Civ. P. 26(a)(2) no later than July 15, 2023. Defendants will serve disclosures of expert testimony pursuant to Fed. R. Civ. P. 26(a)(2) no later than August 15, 2023. Plaintiff shall disclose rebuttal evidence pursuant to Fed. R. Civ. P. 26(a)(2) no later than August 29, 2023.

15. The parties will electronically file Fed. R. Civ. P. 26(a)(3) disclosures, exhibit lists, witness lists, and a written stipulation of uncontested facts on or before the final pretrial conference, September 21, 2023 at 10:00 a.m. The exhibits themselves or a copy should be exchanged with opposing counsel before the conference. Objections to exhibits must be filed by October 2, 2023.

16. The parties agree that the last day to file motions is September 28, 2023.

17. Claim of Privilege or Protection of Trial Preparation Materials: The parties have agreed that an inadvertent production or disclosure of materials subject to a claim of privilege or work product shall not cause a waiver of such privilege or protection. In the event that either party inadvertently produces documents or materials subject to a claim of such privilege or protection,

the producing party will identify the inadvertent disclosure and the receiving party will promptly return the materials. Each party will also produce a log of all documents withheld on the basis of attorney client privilege or other evidentiary privilege or doctrine.

18. Preservation of Discoverable Materials: The parties have confirmed that they are taking all reasonable steps necessary to preserve all discoverable material.

19. The parties have discussed all other items required to be discussed by Rule 26(f).

Dated: May 29, 2023

Respectfully submitted,

/s/ Steven J. Weber

Steven J. Weber, VSB No. 35573
Lucas T. Daniels, VSB No. 91557
Gregory R. Begg, *Pro Hac Vice*
Lauren Rayner Davis, *Pro Hac Vice*
PECKAR & ABRAMSON, P.C.
2055 L Street, NW, Suite 750
Washington, DC 20036
(202) 293-8815
SWeber@pecklaw.com
LDaniels@pecklaw.com
GBegg@pecklaw.com
LDavis@pecklaw.com
Attorneys for Plaintiff Dark Circuit Labs, Inc.

SEEN AND AGREED:

/s/ Anne G. Bibeau

Anne G. Bibeau, VSB 41488
Pietro Sanitate, VSB 89538
WOODS ROGERS VANDEVENTER BLACK PLC
101 West Main Street, Suite 500
Norfolk, VA 23510
(757) 446-8517
anne.bibeau@wrvblaw.com
psanitate@wrvblaw.com
Attorneys for Defendants Black Sails Security LLC and John Carpenter

/s/ Broderick C. Dunn

Broderick C. Dunn, VSB 74847
Maria Estelle Stickrath, VSB 96191
COOK CRAIG & FRANCUZENKO, PLLC
3050 Chain Bridge Road, Suite 200

Fairfax, VA 22030
(703) 865-7480
bdunn@cookcraig.com
mstickrath@cookcraig.com
Attorneys for Defendant Eric Missimer

/s/ Roya Vasseghi
Roya Vasseghi, VSB 85122
Erin N. Schiffman, *Pro Hac Vice*
VASSEGHI BUDD PLLC
9663-A Main Street Fairfax, VA 22203
(703) 215-9358
roya@vasseghibuddlaw.com
erin@vasseghibuddlaw.com
Attorneys for Defendant Michael Frank

/s/ Renee B. Appel
Renee B. Appel, VSB 87721
Dawn Mertineit, *Pro Hac Vice*
SEYFARTH SHAW LLP
975 F. Street NW
Washington, DC 20004
(617) 946-4917
rappel@seyfarth.com
dmertineit@seyfarth.com
Attorneys for Defendant Keith Haddock